

Fulton Lewis Jr. Wins One Libel Trial Collapses in the First Round

By FRANCIS A. PORTER

Radio and TV commentator Fulton Lewis Jr. today stands free of one of two criminal libel charges against him after a St. Mary's County newspaper owner stood on his constitutional rights and refused to testify.

The commentator's trial yesterday in Ellicott City ground to a halt when Standard Fannestock, owner and publisher of the St. Mary's Enterprise refused to discuss a letter allegedly written to him by Mr. Lewis. He said his answers might tend to incriminate him.

The letter appeared in the Enterprise last July 13. It criticized State Sen. Paul J. Early of St. Mary's County, and was the basis of the libel indictment against Mr. Lewis.

Judge James Clark upheld Mr. Fannestock's refusal to answer questions about the letter.

"You can't force the man to incriminate himself," he told State Attorney Joseph A. Mattingly. "If Mr. Lewis is guilty of libel, then this man is, too, but you didn't indict him."

"We had no idea the witness was hostile," Mr. Mattingly said.

"The witness isn't hostile. He just chooses to stand on his constitutional rights," Judge Clark said.

KEY MAN

The newspaperman was the state's key witness. When he refused to testify, the state was unable to prove that Mr. Lewis had written the letter.

The trial, which had been expected to last several days, came to a halt in less than three hours with a directed verdict of "not guilty."

Mr. Mattingly, who is a Democratic candidate for the state senate,

retired foul when the trial had ended. Mr. Fannestock told reporters that he had never been asked by the State's Attorney what his testimony would be.

NO COMMENT

Mr. Lewis refused to comment on the case until the second libel indictment against him is disposed of by the court. It charges he libeled Sen. Bailey and two other St. Mary's political leaders in another letter which was published in the Enterprise July 9.

Mr. Mattingly was given until Thursday to decide if he wants to prosecute the case. View of Mr. Fannestock's Fifth Amendment and Judge Clark set June 30 to hear the case if the state's attorney does not ask to have the indictment dropped.